



National Geospatial-Intelligence Agency

INSTRUCTION

NUMBER 1020.2
24 September 2020

ODE

SUBJECT: Reasonable Accommodation and Personal Assistance Services

References: See Enclosure 1.

1. PURPOSE. This Instruction:

(a) Establishes policy, assigns responsibilities, and provides procedures for the receipt and processing of reasonable accommodation (RA) requests from all interested personnel, and requests for personal assistance services (PAS) from employees with a targeted disability.

(b) Rescinds NGA Instruction 1020.2, "Reasonable Accommodation," 1 October 2005, Administrative Update 1, 05 November 2015.

2. APPLICABILITY. This Instruction applies to:

(a) All NGA employees, prospective civilian employees, applicants for civilian employment, and affiliated intelligence community (IC) personnel permanently assigned to NGA who meet the definition of a Qualified Individual with a Disability (QUID) in need of an RA.

(b) All NGA employees and affiliated IC personnel permanently assigned to NGA who meet the definition of a qualified individual with a targeted disability in need of PAS.

(c) Any contractor personnel jointly employed by NGA in need of an RA. Contractor personnel not jointly employed by NGA and in need of an RA should follow their employer's procedures. However, all requests for accommodation through the contractor's employer will be coordinated between the Office of Diversity, Inclusion, and Equal Employment Opportunity (ODE) and the contractor's employer to ensure that any agreed-upon accommodation meets NGA safety requirements.

3. DEFINITIONS. See Glossary.

4. POLICY. It is NGA policy to provide RAs and PAS allowing employees to more fully participate in the Agency's mission requirements, activities, and events. This Instruction is available to all employees and job applicants by contacting ODE at (571) 557-7374 or

(314) 676-3272. It is also posted to ODE's webpage on the Agency's internal website and can be accessed on the NGA public website at <https://www.nga.mil>. (Reference (c))

5. RESPONSIBILITIES. See Enclosure 2.

6. PROCEDURES. See Enclosure 3.

7. EFFECTIVE DATE. This Instruction is effective on the date of signature.

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Date: 2020.09.24
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Ernest B. Markham
Chief of Staff

Enclosures

1. References
2. Responsibilities
3. Procedures for Reasonable Accommodation
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Glossary

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CHANGE LOG

Change	Change Date	Revised By	Pages Affected	Change Description

ENCLOSURE 1REFERENCES

- (a) Rehabilitation Act of 1973, as amended
- (b) Americans with Disabilities Act of 1990, as amended
- (c) 5 Code of Federal Regulations (CFR) Part 339, Medical Qualification Determinations, 17 February 2017
- (d) 29 CFR Part 1614, Federal Sector Equal Employment Opportunity, 01 July 2007
- (e) 29 CFR Part 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act
- (f) "EEOC Enforcement Guidance: Pre-employment Disability-Related Questions and Medical Examinations," 10 October 1995
- (g) "EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act," 17 October 2002
- (h) "EEOC Enforcement Guidance on the Americans with Disabilities Act and Psychiatric Disabilities," 25 March 1997
- (i) "Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA," 26 July 2000
- (j) NGA Instruction (NGAI) 1020.5, "Discrimination Complaints," 23 October 2017
- (k) NGAI 5500.10, "Alternative Dispute Resolution," 01 May 2019
- (l) "EEOC final rule on Personal Assistance Services for Individuals with Disabilities amending 29 CFR 1614.203 in clarification of affirmative action obligations imposed by Section 501 of the Rehabilitation Act of 1973," as amended, 3 January 2017
- (m) "Enforcement Guidance: Application of EEO Laws to Contingent Workers Placed by Temporary Employment Agencies and Other Staffing Firms," December 1997

ENCLOSURE 2
RESPONSIBILITIES

1. Director, NGA.

a. Designates the Director, ODE (D/ODE), to carry out the responsibilities of the Agency's RA program and PAS.

b. Ensures that sufficient human capital and budgetary resources are allocated to operate and maintain a model Equal Employment Opportunity (EEO) program.

2. D/ODE.

a. Develops and establishes an RA program consistent with applicable laws and regulations.

b. Develops and establishes procedures to provide PAS consistent with applicable laws and regulations.

c. Ensures adequate funding is available to secure items necessary to fulfill individual requests for RAs and PAS.

3. Deputy Director, ODE (DD/ODE).

a. Provides advice and assistance to senior leadership related to the RA program and PAS.

b. Oversees the Agency's final decision-making process on all requests for reconsideration of any denial of a requested RA.

c. Ensures any employee or applicant requesting reconsideration of a denial of accommodation is notified, in writing, of the right to contact an EEO counselor as to the denial of accommodation.

4. RA Program Manager (RA PM).

a. Advises supervisors/managers and employees on the RA process and PAS; may facilitate an interactive discussion in certain cases presenting unique or situational issues in accommodation.

b. Ensures acknowledgment of initial requests for RA and PAS is made within two business days of receipt of the request.

c. Determines if an individual meets the guidelines of a QUID as defined by the Rehabilitation Act of 1973, as amended, within five business days of receiving all required documents from the individual requesting an RA or PAS.

d. Consults with the Agency medical officer for review and verification of medical documentation when necessary.

e. Maintains contact with organizations involved with providing assistive equipment and services to employees with disabilities.

f. Trains the workforce on the Agency's RA and PAS.

g. Coordinates all RA requests for Government contract employees with appropriate contract officer representatives (CORs). The RA PM will coordinate with the COR, appropriate personnel within the Security and Installation Operations Directorate (SI), and the contractor employer to ensure that the requested accommodation meets safety and occupational health standards.

5. Director, Human Development (HD).

a. Serves as the point of contact for NGA job applicants in need of an RA to participate in the hiring process.

b. Refers all requests for an RA to the RA PM for processing.

c. Coordinates through the Agency medical officer the provision of advice on medical assessments when necessary.

d. Notifies the DD/ODE of all requests for reconsideration due to a denial of a requested RA by an applicant.

6. General Counsel.

a. Provides legal review of RA requests as needed.

b. Advises the RA PM on legal matters related to the RA process.

7. Director, SI.

a. Conducts ergonomic workstation assessments.

b. Approves the use of assistive software and electronic devices requested via the RA process to ensure compliance with security guidelines.

c. Approves security plans and sets policy for unique needs for access to NGA facilities.

8. Director, Chief Information Officer and Information Technology Services (CIO-T), approves and installs special hardware, software (assistive technology), peripherals, and voice and video telecommunications equipment to fulfill RA requirements.

9. Director, Office of Corporate Communications, provides captioning services for NGA-generated multimedia.

10. Supervisors/Managers.

a. Communicate to the RA PM any requested accommodation from an employee and refer the employee to the RA Division for information.

b. Engage in the RA interactive process with employees to discuss RA requests to determine and grant an effective RA.

c. Document the outcome of the interactive discussion and the RA(s) granted. Provide a copy of the documentation to the employee and the RA PM.

d. Monitor the effectiveness of the accommodation granted and make adjustments when necessary.

e. Provide a copy of the RA documentation to an employee's new supervisor whenever a position change is made.

11. Employees.

a. Submit RA requests at any time, orally or in writing, to a supervisor or manager within the chain of command, to the ODE RA Division, to the RA PM, or directly to the RA assigned staff. No other Agency employee is designated or responsible for acceptance of RA requests from employees. The requester does not need to have an idea or a description of the type of RA sought prior to initiating a request.

b. Promptly respond to a request (within 30 days) from the RA PM for supporting medical documentation in cases where the disability and/or need for an accommodation are not obvious.

c. Update documentation provided to the RA PM at least annually or as requested.

d. Provide information related to current accommodations afforded to the employee when assigned to a new supervisor.

e. Consider self-identifying in PeopleSoft as a Person with a Disability (PWD) or Person with a Targeted Disability.

12. Applicants for employment must inform the HD recruiting official of any RA needs necessary to participate in the application and hiring process.

13. Contractor employees must submit requests for RA or PAS to their respective employers. If a contractor employee is denied an accommodation or the opportunity to engage in an interactive discussion, the contractor employee should inform the RA PM of ODE.

14. CORs.

a. Ensure Government contract firms provide the necessary RA for their employees to perform the terms of the contract articulated in the statement of work.

b. Ensure that delivery and installation of all computer hardware and software, electronic devices, and ergonomic furniture are coordinated with the RA PM before shipment and installation. All cost for any RA or PAS granted for contractor employees is the responsibility of the contract firm.

ENCLOSURE 3PROCEDURES FOR REASONABLE ACCOMMODATIONS

1. Initiating an RA Request.

a. A request for RA is a statement that an individual needs an adjustment or change at work, or in the job application process related to a disabling condition. The RA process begins as soon as the request for accommodation is made. The requester does not have to use any special words, such as “reasonable accommodation” or “disability.” In fact, an employee’s notifying a supervisor, in words or actions, of difficulties in performing a job task because of a disabling condition should prompt the supervisor to inquire as to whether the employee is in need of accommodation or would wish to consult with the RA staff.

b. An employee or an applicant for employment may request, orally or in writing, an RA for performing the essential functions of the job or for participating in the application process. Upon request by an employee or applicant for employment, the procedures for RAs will be provided in an accessible format.

c. Current employees can make the request to any supervisor or manager within the employee’s chain of command, to ODE’s RA PM, or to RA staff personnel. Applicants for employment can initiate an RA request through the Agency employee connected with the application/hiring process. An applicant for employment may request an RA, orally or in writing, to the HD official with whom the applicant has contact in connection with the application/hiring process. Applicants for employment will also track the processing of their RA request through contact with the HD official with whom the applicant has contact in connection with the application/hiring process.

d. An RA request can be made at any time, even if an applicant or employee has not previously disclosed the existence of a disability.

e. The person requesting accommodation does not have to have a particular accommodation in mind prior to making a request for accommodation.

f. An employee may designate a representative to submit an RA request on his/her behalf. When a representative makes a request on behalf of an employee, the RA PM or supervisor should confirm the request with the employee to ensure that an accommodation is desired.

g. When an individual needs the same RA on a repeated basis (e.g., the assistance of sign language interpreters), a written request is required the first time only. However, the requester must give appropriate advance notice each time the accommodation will be needed.

h. Supervisors who receive RA requests should not question employees about their medical condition and should not rely on assumptions about an impairment to determine

if an employee is a qualified individual with a disability. Supervisors must communicate with employees early and periodically throughout the interactive process concerning the requested accommodation. If the supervisor is unable to provide the requested accommodation or cannot determine whether an RA is necessary, the supervisor should contact the RA PM immediately.

2. Medical Information.

a. In situations where the disability or need for an accommodation is not obvious, the RA PM may only request documentation that is needed to establish that the individual has a disability and the disability requires an RA. The employee or applicant must be able to provide medical information related to the disability and functional limitation(s) caused or resulting from the disabling condition. At a minimum, acceptable medical documentation must establish the nature of the medical condition, the limitations the medical condition imposes, and the causal connection between the medical condition and the inability to meet workplace expectations. The medical documentation must also state how the requested accommodation, if any, will assist the individual to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace. Though not required to initiate the RA process, the employee requesting an accommodation may offer an explanation for any specifically defined or requested accommodation.

b. Failure to provide documentation could result in denial of an RA.

c. If medical documentation is needed, the five-business-day decision period will be suspended until sufficient documentation is received. Once the necessary documents are received, the five-business-day decision window will start.

d. Employees should ask their health care provider to provide documentation that includes clear and concise information regarding their medical condition, limitations, and type of RA necessary to assist with performing the essential functions of their current position or the application/ hiring process.

e. Medical documentation about an individual's disability must be provided by a health care professional or rehabilitation professional. The term "health care professional" may include, but is not limited to, a doctor, chiropractor, psychiatrist, physician's assistant, nurse practitioner, psychologist, nurse, physical occupational specialist, speech therapist, or licensed mental health care professional.

f. The RA PM will only request the information necessary to establish the existence of a disability and functional limitation(s) related to the disability. In most situations, this does not require access to a person's complete medical record. ODE encourages the use by the health care professional of a simplified questionnaire available on the ODE website. When completed, the form normally contains sufficient medical information for RA staff to assess entitlement status, while minimizing the necessity for more extensive medical information or history.

g. To assist the health care provider, the employee should provide a description of the current job, the essential functions he or she is expected to perform, and any other information that is relevant to assist with the evaluation of the request.

h. NGA has the right to have the medical information provided reviewed by the HD medical officer or a medical expert of its own choosing, at NGA expense, to assist with the evaluation of the request for an RA.

i. NGA has a right to request relevant, supplemental medical information if the information submitted does not clearly explain the nature of the disability or to substantiate the requirement for an RA. In addition, if the medical information submitted is not sufficient, NGA has the right to require a physician of the Agency's choosing, and at Agency expense, to examine the employee requesting the RA.

3. Use, Confidentiality, and Dissemination of Medical Information.

a. Under the Rehabilitation Act of 1973, as amended, medical information obtained in connection with the RA process must be kept confidential and will be obtained solely for the purpose of determining whether an individual's disabling condition or status impacts their ability to perform any of life's daily activities. In short, the medical information is analyzed for indications of a disability that would support a determination that a person is a QUID as defined pursuant to the Rehabilitation Act, and thereby eligible for an RA.

b. The medical information provided must be sufficient to address the nature of the person's disability, the need for an RA, and how the requested accommodation, if any, will assist the individual to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace. This means that all medical information that NGA obtains in connection with such requests, including information about an employee's or applicant's disability and RA needs, must be kept in a secure location in locked files separate from the employee's official personnel file. Any NGA employee who obtains or receives such information is strictly bound by confidentiality requirements and may disclose this information only to those authorized to receive the information as necessary to assist in the determination of an RA or the process for qualifying for accommodation.

c. Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements attached to it. These recipients are also bound by the confidentiality requirements and to similarly store or handle the medical information in the manner prescribed for RA staff and to ensure the safeguarding of confidentiality.

d. Supervisors will be advised of the RA PM's determination that an employee has a disability to the extent that he or she is eligible for an RA. The supervisor will also be informed of the recommended type or form of accommodation, or nature of any

limitation, detailed by the employee or noted by the employee's health care professional. The supervisor will not be provided or allowed access to the specific information from the employee's health care professional.

e. Personal or confidential medical information will not be provided to any other entity without the prior informed consent of the employee, except to the degree necessary for (1) supervisors and managers with a need to know may be told about necessary restrictions and about the necessary accommodation(s); (2) the provision of first aid or emergent care for the employee if the disability might require emergency treatment; (3) Government officials to investigate the Agency's compliance with the Rehabilitation Act of 1973, as amended; (4) as required by law or regulation, the access and/or evaluation of eligibility benefits for workers' compensation claims or insurance carriers; and (5) the investigation, resolution, or management of EEO complaints or for EEO officials to maintain records.

4. Processing RA Requests.

a. The RA PM will make a determination as to whether the employee meets the definition of a QUID within five business days after receipt of all required documentation, including any medical documentation requested. The decision will be provided to the supervisor and employee, in writing. The RA PM can be contacted by telephone at (571) 557-7374, or by email at ReasonableAccommodation@nga.mil.

b. If the RA PM determines that an employee does not meet the definition of a QUID, within three business days of receipt of written notice from the RA PM, the employee may request review of the decision. The employee may provide any additional documentation or explanation in support of the disability determination. Within three business days of the receipt of the review request, the RA Division Chief will review the case file, including any additional materials provided by the requesting employee. If the RA Division Chief does not agree with the RA PM's decision, the RA Division Chief shall find the employee as meeting the definition of a QUID, and issue written notice of the decision. If the RA Division Chief agrees with the determination of the RA PM that the employee is not a QUID and thereby not entitled to RA, the RA Division Chief shall direct the convening of an RA Review Panel. The RA Review Panel will proceed as outlined in paragraph 4.c. below.

c. If an employee has filed a request for review of the RA PM's initial determination that the employee is not a QUID as to be entitled to an RA, upon direction of the RA Division Chief, the RA PM will convene an RA Review Panel to examine the decision. The Review Panel shall include the RA PM, the OGC attorney assigned responsibility for advising ODE, and the NGA medical officer. The panel should meet within seven business days of the RA PM's receipt of the request. The panel should assess the employee's limitations, review the medical evidence presented to the RA PM, and issue a final decision as to whether the requesting employee is a QUID. A simple majority vote will decide the issue. If the panel sustains the RM PM's initial determination, the RA PM will prepare written confirmation of the panel's decision for the supervisor,

employee, and RA staff file. The decision notice will also include an advisement of the employee's right to contact an EEO counselor within 45 days of receipt of the decision, if they believe the decision to be discriminatory. If the Panel finds the employee to be a QUID, the RA PM will issue the appropriate notice in writing.

d. An employee or applicant determined not to be a QUID may reapply at any time with any new or additional medical information in support of the application.

e. If the employee is found to meet the definition of a QUID and is thereby eligible for an RA, the supervisor and employee will be advised by written correspondence of the requirement to engage in the interactive process to determine an effective RA. The Agency is not obligated to provide an employee with the accommodation of their choice, but with an accommodation that is reasonable and effective.

f. The interactive process must commence within five business days of receipt of the written correspondence alerting the supervisor and employee of the decision as to disability qualification. In most cases, the interactive process should be completed within five business days. Within five business days following the conclusion of the interactive discussion, the supervisor must provide written notice to the employee of any approved accommodation, an expectation as to the date the employee can expect the implementation or provision of the accommodation, or a justification for denying any requested accommodation. This written notification will be provided to the employee in an accessible format. A copy of the decision must also be provided to the RA PM.

g. If the RA request for an employee is approved, the requested item or service will be provided in the shortest possible timeframe, and failure to provide the accommodation in a prompt fashion may be a violation of the Rehabilitation Act of 1973, as amended. Normally, an employee should expect an approved accommodation to be implemented within 30 calendar days following receipt of the request. If it is not possible to make the accommodation within 30 calendar days (e.g., an item cannot be provided due to procurement delays), the employee must be informed of the status of the request and periodically updated as to when to expect the accommodation will be provided. The employee should be advised of the reason for the delay and any extenuating circumstances offered in justification for the delay.

h. An RA must be expedited in its provision when it is essential to enabling an individual with a disability to apply for a job, the accommodation is needed for a specific Agency activity that is scheduled to occur shortly, or it is critical to the employee's being able to perform at least one of the essential functions of the employee's position. An applicant for employment's request for an RA to engage in the application/hiring process must be approved within 48 hours of receipt unless it is not feasible (because it would cause an undue burden on the Agency). An alternative accommodation should be provided so that the applicant can engage in the application/hiring process.

i. Directorates and Agency Elements are responsible for providing RAs for employees. It is the responsibility of the employee's office to ensure the afforded

accommodation is secured and implemented except for accommodations involving sign language interpreting, administrative assistance, or PAS. ODE is responsible for the provision of sign language interpreting services, administrative assistance services, and PAS. The supervisor of the employee should coordinate with the RA PM for the acquisition of the item or implementation of the service to be provided. If funding is not available, supervisors should contact the RA PM for further guidance. See also section 8.a. below.

j. If an employee's requested accommodation is not one a supervisor is authorized to approve or implement, the supervisor may request the RA PM to facilitate further discussion of alternative, appropriate accommodations prior to issuance of a written notice of denial or refusal to accommodate. The RA PM shall have up to three additional business days to the time authorized for an interactive discussion delineated in 4.f. above.

k. If the supervisor and employee cannot agree on an appropriate accommodation, the supervisor is only willing or able to provide a portion of a requested accommodation, or the supervisor is unable to furnish any appropriate accommodation, the employee must be provided with written notice of the decision and the justification underlying the decision, within five days after the interactive discussion. The notice must also include an advisement of the employee's right to request reconsideration of the denial or failure to reach agreement and a statement informing the employee of the right to seek further procedural guidance from the RA staff. The employee must also be notified of their right to contact an EEO counselor within 45 days of receipt of the decision, if they believe the decision to be discriminatory. See Section 7.a. through f. below for specific guidance on the reconsideration process.

l. An RA request from an applicant to engage in the application/hiring process must be approved and provided as soon as possible. If the request is not feasible (because it would cause an undue burden on the Agency), the applicant should be advised and an alternative accommodation immediately explored. An alternative accommodation should be provided so that the applicant can engage in the application/hiring process. The decision as to the type of accommodation to be afforded is made by the HD recruitment official responsible for the hiring action.

5. The Interactive Process.

a. Communication is a priority and is encouraged throughout the entire RA process. The first step should always be a thorough, open discussion between the HD recruiting official and the applicant or between the employee and their supervisor. The interactive process should include an analysis of the job functions so as to establish the employee's essential job tasks; identification of barriers to job performance; the employee's precise limitations resulting from the disability; and the potentially most effective accommodations that would allow the employee to overcome the limitations. Ongoing communication is important when the specific limitation or barrier is unclear, an

effective accommodation is not obvious, or the parties wish to consider alternative or additional RAs. The RA PM is available to assist with interactive discussions.

b. Factors that may be considered during the interactive discussion include, but are not limited to, the cost of the accommodation, the effect on the employee's performance, personal preferences of the employee, and time needed to complete tasks. If necessary, temporary solutions may be agreed to until a permanent solution can be made. For requests that are, by all facts and circumstances known to the supervisor, likely to result in the provision of an RA, and that accommodation is not available for immediate implementation, the supervisor will provide an interim accommodation which allows the individual to perform some or all of the essential functions of the employee's position.

c. The supervisor or RA PM may share information related to the request with other Agency officials only when those officials need to know the information in order to make determinations about that request.

6. Reassignment—Accommodation of Last Resort.

a. Reassignment to a vacant (equivalent) position for which an employee is qualified, and not just permission to compete for such a position, is an RA. Reassignment is a "last resort" form of RA that will be provided, absent undue hardship, to an employee who, because of a disability, can no longer perform the essential functions of their current position, with or without an RA. The Agency must consider providing reassignment to a vacant position when no other RA would permit an employee with a disability to perform the essential functions of the employee's current position. Reassignment may include being reassigned to a lower-graded position, absent any other effective accommodation that would enable the employee to perform the essential functions of their current job, or if all other possible accommodations would impose undue hardship.

b. Reassignment is available only to NGA employees and may be made only to a valid vacant position. A valid position is a position for which the Agency has a need and the Agency intends to fill the position. The law does not require that agencies create new positions, fill positions for which the Agency has no need, or move other employees in order to create a vacancy for an employee with a disability to be placed.

c. After it is determined and documented that the employee cannot perform the essential functions of their current position because of a disability, and the Agency cannot otherwise accommodate the employee, the RA PM will ask the employee if they are willing to accept a reassignment.

d. If the employee will accept a reassignment, the RA PM will notify the Career Services Director. The Career Services Director will work with the employee to determine positions for which the employee qualifies. To qualify for a vacant position, an employee must have the requisite skill, experience, education, and other job-related

requirements necessary to fill the vacant position. The employee must also have the ability to perform the essential functions of the new position with or without an RA.

e. Efforts will be made to locate an equivalent, funded position in the same commuting area that is vacant, or is anticipated to become vacant, within 60 days. If such a position is located and the employee is minimally qualified for the position, the employee should be non-competitively reassigned. If an equivalent, valid vacant position does not exist within the commuting area, management should determine whether the employee would be willing to relocate in order to secure an equivalent, valid vacant position and identify the area(s) to which the employee would be willing to relocate. Career Services should then determine whether an equivalent, valid vacant position is available in an area to which the employee would be willing to relocate. If no equivalent, valid vacant position is found, management must look for a lower-graded position that is as close as possible to the employee's current pay band and commuting area or in an area to which the employee would be willing to relocate and under the same appointing authority. The employee should be advised that, as with other transfers not required by management, the Agency is not obliged to pay the employee's relocation expenses.

f. Career Services must maintain a list of all valid vacancies considered for placement of the employee and provide a copy to the RA PM.

g. If after a reasonable amount of time (no less than 90 days) has been exhausted to locate a position for the employee without success, the employee should be notified in writing of any other options available, including disability retirement, if eligible.

7. Reconsideration of an RA Request Denial.

a. In the case of a denial of a request for accommodation, the applicant or employee must be informed in writing. The written notice must be made available to the applicant or employee in accessible format (when requested), at the time of the recruiting official's or supervisor's determination. The notice must also include the justification for the denial in a clear and concise rationale. Where there has been a denial of a specifically requested accommodation but an offer to make a different accommodation, the decision letter should explain both the reasons for denying the accommodation requested and the reasons that the accommodation offered would be effective.

b. The written notice of denial of an RA should explain the procedures available for reconsideration and should also inform the individual that they have the right to file an EEO complaint if they believe the denial is discriminatory.

c. If an applicant or employee has additional information to provide in support of their request, or details a position or argument the employee believes was not properly considered by the recruiting official or supervisory decision-maker, the case file with additional information, along with the request for reconsideration, should be forwarded to the DD/ODE. The applicant or employee must file a request for reconsideration within

three business days of receipt of the written notice of denial from the applicant's recruitment official or from the employee's supervisor.

d. The DD/ODE will oversee the reconsideration process of a denied accommodation when the employee or applicant seeks a review.

(1) If the denied accommodation **does not** involve cost or financial resourcing as a justification, the DD/ODE will direct the RA Division Chief to convene an RA Reconsideration Panel to evaluate the inability to accommodate and the justification for the denial of a requested accommodation. Within seven business days of receipt of the reconsideration request and any new case information, the RA Reconsideration Panel will meet and consider the requested accommodation. The Panel will examine the employee's limitations, determine accommodations that will aid the employee in overcoming the limits, and, in the case of no accommodation due to excessive cost or hardship on the Agency, explain how the requested accommodation would constitute such an undue hardship to the Agency. The Panel will also render a decision regarding the accommodation request. The Panel's decision is final. An individual's participation in the reconsideration process does not commence an EEO complaint or initiate the Agency's administrative grievance process.

(2) In the case of a denial of accommodation due to excessive costs or lack of adequate resources resulting in undue hardship to the Agency, the DD/ODE will not convene an RA Reconsideration Panel. Instead, the DD/ODE will direct a cost review analysis pursuant to 8.c.(2) below.

e. Membership of the RA Reconsideration Panel will include the DD/ODE, the Equality Executive for the component from which the employee is assigned, a second- or third-level supervisor of the employee, NGA's medical officer, and a member of the component within NGA responsible for facility access or modification issues (SI), technology resourcing (CIO-T), or medical or rehabilitative assistance or equipment (HD). ODE's counsel may attend in a non-voting, advisory role.

f. The Panel's decision will be provided to the applicant or employee in writing by the RA PM. It will include instructions on how to file an EEO complaint, complete with guidance that the individual must contact an EEO counselor within 45 days of receipt of the denial. If the individual is dissatisfied with the Panel's decision on reconsideration and wishes to engage the EEO process, they must contact an EEO counselor within 45 days of receipt of the written correspondence from the Panel. Participation in any other resolution process does not toll the running of the 45 days.

8. Resourcing and Costs of Accommodation.

a. If funds are not available for the provision of an agreed RA, supervisors should contact the RA PM for alternative means to secure an accommodation. For specific categories of accommodation, the RA PM will coordinate with other Agency offices.

(1) NGA has entered into an agreement with the Department of Defense Computer/Electronic Program (CAP) for acquiring most electronic or computer-based assistive technology. CAP provides technology to employees with disabilities at no cost to NGA. All CAP accommodation requests must be submitted by the NGA RA PM. Employees should not submit requests directly to CAP.

(2) NGA's SI Directorate oversees safety, accessibility, and facility-related accommodations. The RA PM will oversee all coordination necessary for securing both the approval and the implementation of modifications necessary to accommodate.

(3) NGA separately resources certain types of accommodation pursuant to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794d, as amended in 1998). CIO-T manages the funds and procures the requisite software. Section 508 funding will be utilized to implement electronic and information technology accommodations not otherwise procurable through CAP or alternative programs.

b. For all other accommodations not entailing substantial costs or indefinite resource demands, ODE will fund the accommodation from an RA budget line item within ODE's budget.

c. No supervisor, manager, or hiring official is to decide against a requested accommodation on the basis of cost or available resources. Instead, the issue of costs associated with an accommodation is to be raised to the RA PM. A denial of an accommodation based upon cost is to be considered in light of all resources available to the Agency, exclusive of mission-essential funding, or specifically directed funding per Congressional directives.

(1) When a denial of accommodation due to cost is recommended by the supervisor, manager, or hiring official, the recommendation will be noticed in writing to the RA Division Chief. Within three business days of notice receipt, the RA Division Chief, ODE's legal advisor, and ODE's budget officer will meet with the supervisor, employee, and any other person determined essential to a cost feasibility of the accommodation determination.

(2) If, after the meeting, the denial of accommodation based upon cost continues to be the recommendation, then the RA Division Chief will have five business days to coordinate with the Agency's Financial Management (FM) directorate. Coordination by the RA Division Chief will involve confirming Agency programmed resourcing; inquiring into the availability of any uncommitted or non-programmed funding; and obtaining from FM an endorsement of the lack of available, surplus, or uncommitted funds. Coordination must be completed before the RA Division Chief provides a recommendation to the DD/ODE to deny the accommodation based upon projected excessive costs causing an undue hardship to the Agency.

(3) The DD/ODE will review the justification for denying the expenditure, and if the DD/ODE sustains the recommendation not to fund an accommodation, the decision

is final. The DD/ODE's determination should be made within three business days of receipt of the RA Division Chief's recommendation.

9. Annual Review of Afforded Accommodation.

a. RA staff will annually contact the accommodated employee to survey the effectiveness of the accommodation, any necessary modifications, and the continuing duration, and for supervisor and employee feedback.

b. The RA PM may request a renewed interactive discussion to address concerns.

10. Information Management.

a. RA Process.

(1) Timelines for the processing and tracking of any request for accommodation will be maintained on the ODE website and the RA PM will ensure that any requesting employee is advised of how to access the information.

(2) During all intake consultations, HD staff will inform applicants for employment and RA staff will inform employees of the timelines for processing accommodation requests.

b. Records Maintenance.

(1) The RA Division within ODE will maintain individual files on all RA cases and store them separately and securely from all other ODE files and materials. The files will contain the minimum information necessary to assess compliance with NGA's affirmative plan for hiring, placement, retention, and advancement of individuals with disabilities. The files will include specific information as to the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met, in keeping with the Agency's overall goal of ensuring that at least 12 percent of the workforce are individuals with disabilities, and no less than 2 percent of the workforce are individuals with targeted disabilities.

(a) All inquiries will be logged inclusive of the type of accommodation discussed.

(b) A case file will be opened and maintained on all applications for RA received. Medical information will be separately tabbed within the file. The entire case file will be accessible only to those personnel assigned to the RA division with a need to know the information in order to process the RA request.

(c) Demographic information related to the type of disability of the requester should be tracked to the extent the information is voluntarily provided by the person seeking the accommodation.

(d) Timing compliance, the NGA key component agreeing to the accommodation, and the satisfaction rate of the requested accommodation should be annotated and available for reporting.

(e) The RA Division will record the identity of the deciding official and the number of days taken to process RA requests. The RA Division will also track, and maintain for reporting and program evaluation purposes, the specific accommodation afforded; the job and position details sought by the requesting applicant, or held by the employee at the time of request; information as to whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment; whether the accommodation was granted as sought, partially or alternatively granted, or denied; justification essentials for any partial grant or denial of accommodation; and any explanation for processing delays outside of expected compliance timeframes.

(2) RA case files will be stored in a locked file cabinet within an office or allocated space of RA-assigned personnel. Only RA personnel will have access to RA case files, subject to partial review for those cases under reconsideration by personnel assigned to the Review or Reconsideration Panels.

c. Reporting.

(1) ODE will ensure the availability of data in response to Equal Employment Opportunity Commission (EEOC) inquiries as to the effectiveness of the Agency's affirmative employment for individuals with a disability.

(2) The RA Division Chief will brief a status report on RA program compliance to the D/ODE at least quarterly.

(3) The RA PM will provide summary reports, as directed, to the RA Division Chief and to the Diversity and Inclusion Division Chief for the purpose of preparation of any mandated annual report, e.g., MD 715, ODNI report.

(4) The RA PM will furnish to NGA's HD Directorate summary information on program effectiveness for inclusion in any mandated annual report for which HD holds primary coordinating responsibility, e.g., Disabled Veterans Affirmative Action Program (DVAAP).

ENCLOSURE 4PROCEDURES FOR PERSONAL ASSISTANCE SERVICES

1. Initiating PAS Requests.

- a. All requests for PAS should be submitted to the ODE RA PM in writing.
- b. Upon receipt of the request, the RA PM, or designated staff member, will meet with the employee to determine the specific needs of the employee and identify the most efficient manner to provide the services if possible.
- c. The RA PM will notify the employee's supervisor of the request along with the status of the request.

2. Time Limits.

- a. Within 10 business days of the intake meeting with the employee, the RA PM confers with the employee's supervisor and solicits any input relative to the provision, utilization, arrangement, or objections to the requested PAS to be provided within the workplace for the benefit of the employee.
- b. Within five business days after the meeting between the RA PM and the employee's supervisor, the RA PM will ensure that the appropriate medical staff member is advised of the service requirement and arrange for implementation of the necessary service. The RA PM will document the implementation plan, schedule, and coordinating requirements for inclusion in the case file and provide a copy to the employee.
- c. Within 30 calendar days from receipt of the request, the PAS will be made available to the employee, unless the personal service request is unique and not otherwise available, contracted, or able to be timely procured. The requesting employee will be notified of any delays in provision of services.

3. Processing of Personal Assistance Services Requests.

- a. The RA PM, or designated RA staff member, will work with the HD medical officer to secure the services requested by the employee or to establish an assistance service that facilitates the needs of the employee.
- b. The RA PM will document how the service(s) actually assist the employee, the frequency and expected duration of the service(s) to be provided, the plan and responsible entity for provision of the service, and a periodic survey of the employee's and supervisor's assessment of the service, complete with an impact statement of the overall benefits of the service to the employee.

c. Cost for furnishing PAS will be covered by the ODE RA fund, except to the extent that the services are provided pursuant to or under the terms of other specific Agency contracted services, or are incidental to a key component of the Agency's policies, practices, or standard operational procedures.

GLOSSARY

DEFINITIONS

Decision Maker	A person who determines whether or not a request for a reasonable accommodation is granted. In the case of employees, the decision maker will, in most cases, be the immediate supervisor. In the case of an applicant, the decision maker is the official responsible for the recruitment action for the position for which the applicant is applying. (Definition created by NGA for NGA purposes only.)
Disability	A physical or mental impairment that substantially limits one or more of a person's major life activities. The term <i>substantially limits</i> implies a degree of severity and duration: A person's major life activities are substantially limited if he/she is unable to perform, or is significantly limited in the ability to perform, an activity compared to an average person without a disability. Major life activities are activities that an average person without a disability can perform with little or no difficulty; they include, but are not limited to, speaking, hearing, seeing, and walking. (Reference (a))
Essential Job Functions	The fundamental job duties of the employment position the individual with a disability must be able to perform, with or without a reasonable accommodation. It does not include the marginal functions of the position. (Reference (c))
Individual with a Disability	One who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. (Reference (a))
Interactive Process	An exchange of information between supervisor and individual when an accommodation has been requested that identifies the precise limitations resulting from the disability and the potential reasonable accommodation that could overcome those limitations. (Reference (c))
Joint Employer	A federal agency will qualify as a joint employer of an individual contractor if it has the requisite means and manner of control over the individual's work, whether or not the individual is on the federal payroll. For example, an agency may be considered an employer of the worker if: (1) it supplies the work space, equipment, and supplies; and (2) it has the right to control the details of the work performed, to make or change assignments, and to terminate the relationship. Current EEOC enforcement guidance confirms that a

	federal agency is obligated to provide a reasonable accommodation, absent undue hardship, where that agency qualifies as a joint employer of staffing firm workers. (Reference (m))
Personal Assistance Services (PAS)	Services provided to employees with targeted disabilities to assist with performing basic activities of daily living such as eating, removing outer garments, and using the restroom. (Reference (l))
Qualified Individual with a Disability (QUID)	An individual with a disability who possesses the skills, experience, education, and other requirements of the job and can perform the essential functions of the position with or without a reasonable accommodation. (Reference (a))
Reasonable Accommodation (RA)	Any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. (Reference (a))
Reassignment	Reassignment as used in this Instruction is a "last resort" form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their jobs, with or without a reasonable accommodation. Reassignments are made only to valid vacant positions and only to employees who are qualified for the new position. If the employee meets the minimum essential function of the position, he or she will be reassigned to the job without having to compete for it. (Reference (g))
Undue Hardship	The term "undue hardship" means significant difficulty or expense in, or resulting from, the provision of the accommodation. The undue hardship provision takes into account the financial realities of the employer; however, it is not limited to financial difficulty. Undue hardship refers to any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the Agency. (Reference (a))